

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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D. James Hadel and Robert Daisin, as
Fiduciaries of the NATIONAL ROOFING
INDUSTRY PENSION PLAN; James Hadel
and John Plescia, as Fiduciaries of the
NATIONAL ROOFERS & EMPLOYERS
UNION HEALTH & WELFARE FUND,

Plaintiffs,

vs.

WILLIS ROOF CONSULTING, INC., a Nevada
Corporation; JOSEPH A. WILLIS, individually
and as Trustee of the Joemar Irrevocable Trust,
as Trustee under an Agreement Dated June 24,
1997, and as Trustee of the Joseph Arthur Willis
Separate Property Trust; MARIE E. WILLIS,
individually, and as Trustee of the Willis J & M
1990 Living Trust Agreement, inclusive,

Defendants.

Case No.: 2:06-cv-01032-RLH-RJJ

ORDER

(Motion for Order Preventing
Dismissal-#279)

Before the Court is Plaintiffs' **Motion for Order Preventing Dismissal Under Local Rule 41-1** (#279, filed Nov. 16, 2011).

Plaintiffs filed this lawsuit back in 2006 alleging Defendant Willis Roof and its owners, Joseph and Marie Willis, breached a collective-bargaining agreement by failing to pay contributions required under that agreement. On July 20, 2010, the Court granted Plaintiffs' motion to amend, allowing Plaintiffs to add various other defendants to this case. (#169). However, because Plaintiffs filed an amended complaint different from their proposed amended complaint the Court issued an order striking Plaintiffs amended complaint. (#245). Plaintiffs then filed the proposed amended complaint they originally attached to their motion to amend. (#247). However, the Court subsequently withdrew its order granting Plaintiffs' motion to amend. (#251). Therefore, the operative complaint in this case is not Plaintiffs' second amended complaint (#251),

1 but Plaintiffs original complaint (#1). Therefore, the only remaining Defendants in this case are
2 those named in the original complaint—Willis Roof, and Joseph and Marie Willis. Finally, on
3 August 4, the Court issued an Order (#203) staying this case as to these Defendants because
4 Defendant Willis Roof filed for bankruptcy.

5 Just recently the Court issued an order (#278) advising Plaintiffs that the Court
6 would dismiss the case under Local Rule 41-1 for failure to prosecute. Plaintiffs had not taken any
7 action on this case for over 270 days. Plaintiffs have now filed a motion asking the Court not to
8 dismiss the case. (#279). Plaintiffs point out that the Court stayed the case as to Willis Roof and
9 Joseph and Marie Willis in its previous order (#203), and it is because of the stay that Plaintiffs
10 have not taken any action in this case. Because Plaintiffs assure the Court that the bankruptcy
11 matter is still pending before the United States Bankruptcy Court, the Court grants Plaintiffs
12 motion.

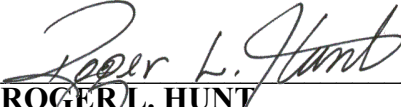
13 However, inasmuch as the bankruptcy matter is still pending, and this case will
14 remain stayed, the Court hereby ADMINISTRATIVELY CLOSES THIS CASE subject to being
15 reopened when the bankruptcy proceedings conclude or the bankruptcy court lifts the stay.

16 Furthermore, the Court orders the parties to only include Defendants Willis Roof
17 Consulting, Inc., Joseph A. Willis, and Marie E. Willis in the caption of any subsequent filing in
18 this case.

19 Accordingly, and for good cause appearing,

20 IT IS HEREBY ORDERED that Plaintiffs Motion for Order Preventing Dismissal
21 (#279) is GRANTED. However, the Court administratively closes this case as stated in this order.

22 Dated: Nov. 17, 2011

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24 
25 **ROGER L. HUNT**
26 **United States District Judge**